

A U S T I N C I T Y C O U N C I L
AGENDA

Thursday, November 16, 2006

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**Discussion and Possible Action on Bond Sales
RECOMMENDATION FOR COUNCIL ACTION**

ITEM No. 51

Subject: Approve an ordinance authorizing the issuance of City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2006A, in the approximate amount of \$135,000,000, and authorizing the execution of all related documents.

Amount and Source of Funding: No fiscal impact during Fiscal Year 2006-2007 \$3,375,000 estimated debt service and \$150 for paying agent/registrar fees were included in the Fiscal Year 2006-2007 Approved Budget of the Utility Revenue Bond Redemption Fund.

Additional Backup Material

(click to open)

Ordinance

For More Information: Art Alfaro, Treasurer, 974-7882

The Water and Wastewater Utility will refund \$135,000,000 of Tax-Exempt Commercial Paper in order to take advantage of currently favorable market conditions and free a significant portion of the commercial paper credit line for future borrowing needs.

Electronic bids will be accepted beginning at 9:30 a.m. Central Daylight Time ("CDT") and ending at 10:00 a.m., CDT, on Thursday, November 16, 2006. Bids will be verified by the City's Financial Advisor, Public Financial Management, Inc.

Fulbright & Jaworski, L.L.P. will serve as bond counsel for this transaction.

This item has been posted for not later than 2:00 p.m., in order for Council action to occur prior to the close of the financial markets.

AN ORDINANCE authorizing the issuance and sale of "CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2006A"; prescribing the terms, features and specifications of said Bonds; pledging the net revenues of the City's Water and Wastewater System to the payment of principal of and interest on said Bonds; enacting other provisions incident and related to the issuance, payment, sale and delivery of such Bonds, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of an Official Statement pertaining thereto; and providing an effective date.

WHEREAS, in accordance with the provisions of V.T.C.A., Government Code, Chapter 1371, the City of Austin, Texas (the "City") has authorized by ordinance and provided for the issuance and sale of "CITY OF AUSTIN, TEXAS, COMBINED UTILITY SYSTEMS COMMERCIAL PAPER NOTES, SERIES A" (the "Series A Notes") up to an aggregate principal amount of \$350,000,000 to finance the costs of additions, improvements and extensions to the City's Water and Wastewater System and the City's Electric Light and Power System, and

WHEREAS, the City Council hereby finds and determines that \$135,000,000 in principal amount of the Series A Notes should be refunded and refinanced into long term obligations at this time (such Series A Notes being hereinafter collectively referred to as the "Refunded Obligations") to enable the City's Water and Wastewater Department to continue utilizing its allocated share of such commercial paper program notwithstanding that the aggregate amount of payments to be made on the refunding bonds herein authorized exceeds the aggregate amount of payments that would have been made on the Refunded Obligations had the refunding not occurred, that the issuance of the bonds herein authorized is in the best interests of the City and that the manner in which the refunding is being executed does not make it practicable to make the determination required by V.T.C.A., Government Code, Section 1207.008(a)(2), and

WHEREAS, the City Council further finds and determines the bonds herein authorized to be issued to refund the Refunded Obligations can and shall be on a parity with the outstanding "Parity Water/Wastewater Obligations" issued in accordance with and under the terms and provisions of Ordinance No. 000608-56A (the "Master Ordinance") and the Prior Supplements; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS:

SECTION 1: DEFINITIONS. In addition to the definitions set forth in the preamble of this Ordinance (hereinafter referred to as the "Twelfth Supplement"), the terms used herein and not otherwise defined shall have the meanings given in the Master Ordinance and the Prior Supplements or in **Exhibit A** to this Twelfth Supplement.

SECTION 2: AUTHORIZATION – DESIGNATION – PRINCIPAL AMOUNT - PURPOSE. Revenue bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of ONE HUNDRED THIRTY-FIVE MILLION DOLLARS (\$135,000,000) to be designated and bear the title "CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2006A" (hereinafter referred to as the "Bonds"), for the purpose of refinancing and refunding the Refunded Obligations (identified and defined in the preamble hereof), and paying costs of issuance in conformity with the Constitution

1 and laws of the State of Texas, including V.T.C.A., Government Code, Chapters 1207 and
2 1371, as amended.

3 **SECTION 3: FULLY REGISTERED OBLIGATIONS - AUTHORIZED DENOMINATIONS**
4 **- STATED MATURITIES - DATE.** The Bonds shall be issued as fully registered obligations,
5 without coupons, shall be dated November 15, 2006 (the "Bond Date") and, other than the
6 single fully registered Initial Bond referenced in Section 9 hereof, shall be in denominations of
7 \$5,000 or any integral multiple thereof (within a Stated Maturity), shall be numbered
8 consecutively from One (1) upward and shall become due and payable on November 15 and in
9 principal amounts (the "Stated Maturities") in accordance with the following schedule:

Stated Maturity	Principal Amount (\$)	Interest Rate(s)	Stated Maturity	Principal Amount (\$)	Interest Rate(s)
2008	2,120,000		2023	4,490,000	
2009	2,230,000		2024	4,720,000	
2010	2,345,000		2025	4,965,000	
2011	2,465,000		2026	5,215,000	
2012	2,590,000		2027	5,485,000	
2013	2,725,000		2028	5,765,000	
2014	2,865,000		2029	6,060,000	
2015	3,010,000		2030	6,370,000	
2016	3,165,000		2031	6,700,000	
2017	3,325,000		2032	7,045,000	
2018	3,495,000		2033	7,405,000	
2019	3,675,000		2034	7,785,000	
2020	3,865,000		2035	8,185,000	
2021	4,065,000		2036	8,600,000	
2022	4,270,000				

10 The Bonds shall bear interest on the unpaid principal amounts from the Bond Date or the
11 most recent interest payment date to which interest has been paid or duly provided for, at the
12 rate(s) per annum shown in the above schedule (calculated on the basis of a 360-day year of
13 twelve 30-day months). Interest on the Bonds shall be payable on May 15 and November 15 in
14 each year, commencing May 15, 2007, until maturity or prior redemption.

15 **SECTION 4: TERMS OF PAYMENT - PAYING AGENT/REGISTRAR.** The principal of,
16 premium, if any, and the interest on the Bonds, due and payable by reason of maturity,
17 redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds
18 (hereinafter called the "Holders") appearing on the registration and transfer books maintained by
19 the Paying Agent/Registrar, and the payment thereof shall be in any coin or currency of the
20 United States of America, which at the time of payment is legal tender for the payment of public
21 and private debts, and shall be without exchange or collection charges to the Holders.

22 The selection and appointment of Deutsche Bank Trust Company Americas, New York,
23 New York to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed.
24 Books and records relating to the registration, payment, transfer and exchange of the Bonds
25 (the "Security Register") shall at all times be kept and maintained on behalf of the City by the
26 Paying Agent/Registrar as provided herein and in accordance with the terms and provisions of a
27 "Paying Agent/Registrar Agreement", substantially in the form attached hereto as **Exhibit B**,
28 and such reasonable rules and regulations as the Paying Agent/Registrar and the City may
29 prescribe. The Mayor and City Clerk are authorized to execute and deliver such Paying

1 Agent/Registrar Agreement. The City covenants to maintain and provide a Paying
2 Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying
3 Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and
4 authorized to serve in such capacity and perform the duties and services of Paying
5 Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees
6 to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first
7 class postage prepaid, which notice shall also give the address of the new Paying
8 Agent/Registrar.

9 Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities
10 or redemption thereof, only upon presentation and surrender of the Bonds to the Paying
11 Agent/Registrar at its designated offices in New York, New York (the "Designated
12 Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names
13 appear in the Security Register at the close of business on the Record Date (the last business
14 day of the month next preceding each interest payment date), and such interest shall be paid by
15 the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to
16 the address of the Holder recorded in the Security Register or (ii) by such other method,
17 acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the
18 Holder. If the date for the payment of the principal of or interest on the Bonds shall be a
19 Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the
20 Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by
21 law or executive order to close, then the date for such payment shall be the next succeeding
22 day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are
23 authorized to close; and payment on such date shall have the same force and effect as if made
24 on the original date payment was due.

25 In the event of a non-payment of interest on one or more maturities on a scheduled
26 payment date, and for thirty (30) days thereafter, a new record date for such interest payment
27 for such maturity or maturities (a "Special Record Date") will be established by the Paying
28 Agent/Registrar, if and when funds for the payment of such interest have been received from
29 the City. Notice of the Special Record Date and of the scheduled payment date of the past due
30 interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5)
31 business days prior to the Special Record Date by United States Mail, first class postage
32 prepaid, to the address of each Holder of such maturity or maturities appearing on the Security
33 Register at the close of business on the last business day next preceding the date of mailing of
34 such notice.

35 **SECTION 5. REDEMPTION.** (a) Optional Redemption. The Bonds having Stated
36 Maturities on and after November 15, 2017, shall be subject to redemption prior to maturity, at
37 the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple
38 thereof (and if within a Stated Maturity by lot by the Paying Agent/ Registrar), on November 15,
39 2016 or on any date thereafter at the redemption price of par plus accrued interest to the date of
40 redemption.

41 (b) Exercise of Redemption Option. At least forty-five (45) days prior to a
42 redemption date for the Bonds (unless a shorter notification period shall be satisfactory to the
43 Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to
44 redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date of
45 redemption therefor. The decision of the City to exercise the right to redeem Bonds shall be
46 entered in the minutes of the governing body of the City.

1 (c) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the
2 same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar
3 shall treat such Bonds as representing the number of Bonds Outstanding which is obtained by
4 dividing the principal amount of such Bonds by \$5,000 and shall select the Bonds to be
5 redeemed within such Stated Maturity by lot.

6 (d) Notice of Redemption. Not less than thirty (30) days prior to a redemption date
7 for the Bonds, a notice of redemption shall be sent by United States Mail, first class postage
8 prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be
9 redeemed in whole or in part at the address of the Holder appearing on the Security Register at
10 the close of business on the business day next preceding the date of mailing such notice, and
11 any notice of redemption so mailed shall be conclusively presumed to have been duly given
12 irrespective of whether received by the Holder.

13 All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii)
14 identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be
15 redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv)
16 state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall
17 become due and payable on the redemption date specified, and the interest thereon, or on the
18 portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the
19 redemption date, and (v) specify that payment of the redemption price for the Bonds, or the
20 principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer
21 Office of the Paying Agent/ Registrar only upon presentation and surrender thereof by the
22 Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption
23 and notice of redemption thereof has been duly given or waived as herein provided, such Bond
24 (or the principal amount thereof to be redeemed) shall become due and payable, and interest
25 thereon shall cease to accrue from and after the redemption date therefor, provided moneys
26 sufficient for the payment of such Bonds (or of the principal amount thereof to be redeemed) at
27 the then applicable redemption price are held for the purpose of such payment by the Paying
28 Agent/Registrar.

29 **SECTION 6 REGISTRATION-TRANSFER-EXCHANGE OF BONDS-PREDECESSOR**
30 **BONDS.** The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register
31 the name and address of each registered owner of the Bonds issued under and pursuant to the
32 provisions of this Twelfth Supplement. Any Bond may, in accordance with its terms and the
33 terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon
34 the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of
35 such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument
36 of transfer or request for exchange duly executed by the Holder or by his duly authorized agent,
37 in form satisfactory to the Paying Agent/ Registrar.

38 Upon surrender for transfer of any Bond (other than the Initial Bonds authorized in
39 Section 9 hereof) at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the
40 Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or
41 transferees, one or more new Bonds executed on behalf of, and furnished by, the City of
42 authorized denominations and having the same Stated Maturity and of a like aggregate principal
43 amount as the Bond or Bonds surrendered for transfer.

44 At the option of the Holder, Bonds (other than the Initial Bonds authorized in Section 9
45 hereof) may be exchanged for other Bonds of authorized denominations and having the same
46 Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the
47 Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the

1 Designated Payment/Transfer Office of the Paying Agent/ Registrar Whenever any Bonds are
2 surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds,
3 executed on behalf of, and furnished by, the City, to the Holder requesting the exchange.

4 All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the
5 Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States
6 Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be
7 valid obligations of the City, evidencing the same obligation to pay, and entitled to the same
8 benefits under this Twelfth Supplement, as the Bonds surrendered in such transfer or exchange.

9 All transfers or exchanges of Bonds pursuant to this Section shall be made without
10 expense or service charge to the Holder, except as otherwise herein provided, and except that
11 the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or
12 exchange of any tax or other governmental charges required to be paid with respect to such
13 transfer or exchange.

14 Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof
15 are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be,
16 of the same obligation to pay evidenced by the Bond or Bonds registered and delivered in the
17 exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any
18 mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued,
19 registered and delivered in lieu thereof pursuant to Section 19 hereof and such new
20 replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost,
21 destroyed, or stolen Bond

22 Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange
23 any Bond called for redemption, in whole or in part, within 45 days of the date fixed for
24 redemption of such Bond; provided, however, such limitation of transfer shall not be applicable
25 to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in
26 part

27 **SECTION 7: BOOK-ENTRY-ONLY TRANSFERS AND TRANSACTIONS.**

28 Notwithstanding the provisions contained in Sections 4, 5 and 6 hereof relating to the payment,
29 and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of the
30 "Book-Entry-Only" securities clearance, settlement and transfer system provided by The
31 Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws
32 of the State of New York, in accordance with the operational arrangements referenced in the
33 Blanket Issuer Letter of Representation, by and between the City and DTC (the "Depository
34 Agreement").

35 Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be
36 deposited with DTC, who shall hold said Bonds for its participants (the "DTC Participants")
37 While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on
38 the Security Register for all purposes, including payment and notices, shall be Cede & Co., as
39 nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each
40 Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

41 In the event DTC determines to discontinue serving as securities depository for the
42 Bonds or otherwise ceases to provide book-entry clearance and settlement of securities
43 transactions in general or the City determines that DTC is incapable of properly discharging its
44 duties as securities depository for the Bonds, the City covenants and agrees with the Holders of
45 the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to

1 be issued and delivered to DTC Participants and Beneficial Owners, as the case may be.
2 Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the
3 Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall
4 be made in accordance with the provisions of Sections 4, 5 and 6 hereof.

5 **SECTION 8: EXECUTION - REGISTRATION.** The Bonds shall be executed on behalf of
6 the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the
7 City Clerk. The signature of said officers on the Bonds may be manual or facsimile. Bonds
8 bearing the manual or facsimile signatures of individuals who are or were the proper officers of
9 the City on the Bond Date shall be deemed to be duly executed on behalf of the City,
10 notwithstanding that such individuals or either of them shall cease to hold such offices at the
11 time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in
12 subsequent exchanges and transfers, all as authorized and provided in V.T.C.A., Government
13 Code, Chapter 1201, as amended.

14 No Bond shall be entitled to any right or benefit under this Twelfth Supplement, or be
15 valid or obligatory for any purpose, unless there appears on such Bond either a certificate of
16 registration substantially in the form provided in Section 10C, manually executed by the
17 Comptroller of Public Accounts of the State of Texas or his or her duly authorized agent, or a
18 certificate of registration substantially in the form provided in Section 10D, manually executed by
19 an authorized officer, employee or representative of the Paying Agent/ Registrar, and either
20 such certificate upon any Bond duly signed shall be conclusive evidence, and the only evidence,
21 that such Bond has been duly certified, registered and delivered.

22 **SECTION 9: INITIAL BONDS.** The Bonds herein authorized shall be initially issued
23 either (i) as a single fully registered bond in the total principal amount referenced in Section 2
24 hereof with principal installments to become due and payable as provided in Section 3 hereof
25 and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each stated
26 maturity in the applicable principal amount and denomination and to be numbered consecutively
27 from T-1 and upward (hereinafter called the "Initial Bonds"). In either case, the Initial Bonds
28 shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial
29 Bonds shall be the Bonds submitted to the Office of the Attorney General of the State of Texas
30 for approval, certified and registered by the Office of the Comptroller of Public Accounts of the
31 State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial
32 Bonds, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s),
33 or the designee thereof, shall cancel the Initial Bonds delivered hereunder and exchange
34 therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and
35 bearing applicable interest rates for transfer and delivery to the Holders named at the addresses
36 identified therefor, all pursuant to and in accordance with such written instructions from the initial
37 purchaser(s), or the designee thereof, and such other information and documentation as the
38 Paying Agent/Registrar may reasonably require.

39 **SECTION 10. FORMS.** A. Forms Generally. The Bonds, the Registration Certificate of
40 the Comptroller of Public Accounts of the State of Texas, the Certificate of Registration, and the
41 form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set
42 forth in this Section with such appropriate insertions, omissions, substitutions, and other
43 variations as are permitted or required by this Twelfth Supplement and may have such letters,
44 numbers, or other marks of identification (including identifying numbers and letters of the
45 Committee on Uniform Securities Identification Procedures of the American Bankers
46 Association) and such legends and endorsements (including insurance legends in the event the
47 Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an
48 opinion of counsel) thereon as may, consistently herewith, be established by the City or

1 determined by the officers executing such Bonds as evidenced by their execution thereof Any
2 portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate
3 reference thereto on the face of the Bond.

4 The definitive Bonds and the Initial Bonds shall be printed, lithographed, or engraved,
5 typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined
6 by the officers executing such Bonds as evidenced by their execution thereof

7 B Form of Definitive Bond.

8 REGISTERED
9 NO. _____

REGISTERED
\$ _____

10 UNITED STATES OF AMERICA
11 STATE OF TEXAS
12 CITY OF AUSTIN, TEXAS,
WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BOND,
SERIES 2006A

Bond Date:
November 15, 2006

Interest Rate: _____

Stated Maturity:
November 15, 20 _____

CUSIP NO. _____

Registered Owner.

Principal Amount:

DOLLARS

13 The City of Austin (hereinafter referred to as the "City"), a body corporate and municipal
14 corporation in the Counties of Travis and Williamson, State of Texas, for value received, hereby
15 promises to pay to the Registered Owner named above, or the registered assigns thereof, solely
16 from the revenues hereinafter identified, on the Stated Maturity date specified above the
17 Principal Amount stated above (or so much thereof as shall not have been paid upon prior
18 redemption), and to pay interest (computed on the basis of a 360-day year of twelve 30-day
19 months) on the unpaid Principal Amount hereof from the interest payment date next preceding
20 the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration
21 Date" as of an interest payment date, in which case it shall bear interest from such date, or
22 unless the "Registration Date" of this Bond is prior to the initial interest payment date in which
23 case it shall bear interest from the Bond Date) at the per annum rate of interest specified above;
24 such interest being payable on May 15, 2007 and on each November 15 and May 15 thereafter
25 until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or
26 redemption to the registered owner hereof, upon presentation and surrender, at the Designated
27 Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate
28 appearing hereon, or its successor; provided, however, while this Bond is registered to Cede &
29 Co., the payment of principal upon a partial redemption of the principal amount hereof may be
30 accomplished without presentation and surrender of this Bond. Interest is payable to the
31 registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Twelfth
32 Supplement hereinafter referenced) whose name appears on the "Security Register" maintained
33 by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last
34 business day of the month next preceding each interest payment date and interest shall be paid
35 by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to
36 the address of the registered owner recorded in the Security Register or by such other method,
37 acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the
38 registered owner. If the date for the payment of the principal of or interest on the Bonds shall be

1 a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the
2 Designated Payment/Transfer Office of the Paying Agent/ Registrar is located are authorized by
3 law or executive order to close, then the date for such payment shall be the next succeeding
4 day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are
5 authorized to close; and payment on such date shall have the same force and effect as if made
6 on the original date payment was due. All payments of principal of, premium, if any, and
7 interest on this Bond shall be without exchange or collection charges to the owner hereof and in
8 any coin or currency of the United States of America which at the time of payment is legal
9 tender for the payment of public and private debts.

10 This Bond is one of the series specified in its title issued in the aggregate principal
11 amount of \$135,000,000 (herein referred to as the "Bonds") for the purpose of refinancing and
12 refunding the Refunded Obligations (identified and defined in the Twelfth Supplement
13 hereinafter referenced), in conformity with the Constitution and laws of the State of Texas,
14 including V.T.C.A., Government Code, Chapters 1207 and 1371, as amended, and pursuant to
15 a Master Ordinance and Twelfth Supplement adopted by the City Council of the City (herein
16 collectively referred to as the "Ordinances").

17 The Bonds maturing on and after November 15, 2017, may be redeemed prior to their
18 Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or
19 any integral multiple thereof (and if within a Stated Maturity by lot by the Paying
20 Agent/Registrar), on November 15, 2016 or on any date thereafter at the redemption price of
21 par plus accrued interest thereon to the redemption date.

22 Not less than thirty (30) days prior to a redemption date, the City shall cause a written
23 notice of such redemption to be sent by United States Mail, first class postage prepaid, to the
24 registered owners of each Bond to be redeemed at the address shown on the Security Register
25 and subject to the terms and provisions relating thereto contained in the Ordinances. If a Bond
26 (or any portion of its principal sum) shall have been duly called for redemption and notice of
27 such redemption duly given, then upon such redemption date such Bond (or the portion of its
28 principal sum to be redeemed) shall become due and payable, and interest thereon shall cease
29 to accrue from and after the redemption date therefor, provided moneys for the payment of the
30 redemption price and the interest on the principal amount to be redeemed to the date of
31 redemption are held for the purpose of such payment by the Paying Agent/Registrar.

32 In the event a portion of the principal amount of a Bond is to be redeemed and the
33 registered owner is someone other than Cede & Co., payment of the redemption price of such
34 principal amount shall be made to the registered owner only upon presentation and surrender of
35 such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new
36 Bond or Bonds of like maturity and interest rate in any authorized denominations provided by
37 the Ordinances for the then unredeemed balance of the principal sum thereof will be issued to
38 the registered owner, without charge. If a Bond is selected for redemption, in whole or in part,
39 the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an
40 assignee of the registered owner within forty-five (45) days of the redemption date therefor;
41 provided, however, such limitation on transferability shall not be applicable to an exchange by
42 the registered owner of the unredeemed balance of a Bond redeemed in part.

43 The Bonds are special obligations of the City payable solely from and, together with the
44 Prior Subordinate Lien Obligations, the Previously Issued Separate Lien Obligations, and
45 Previously Issued Parity Water/Wastewater Obligations currently Outstanding, equally and
46 ratably secured by a parity lien on and pledge of, the Net Revenues of the Water/Wastewater
47 System in the manner provided in the Ordinances. Additionally, the Bonds and Previously

1 Issued Parity Water/Wastewater Obligations referenced above shall be equally and ratably
2 secured by a parity lien on the funds, if any, deposited to the credit of the Debt Service Fund
3 and the Reserve Fund in accordance with the terms of the Ordinances. The Bonds do not
4 constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the
5 City or the Water/Wastewater System, except with respect to the Net Revenues. The holder
6 hereof shall never have the right to demand payment of this obligation out of any funds raised or
7 to be raised by taxation.

8 Subject to satisfying the terms and conditions prescribed therefor, the City has reserved
9 the right to issue additional revenue obligations payable from and equally and ratably secured
10 by a parity lien on and pledge of the Net Revenues of the Water/Wastewater System, in the
11 same manner and to the same extent as the Bonds.

12 Reference is hereby made to the Ordinances, copies of which are on file with the Paying
13 Agent/Registrar, and to all of the provisions of which the Holder by the acceptance hereof
14 hereby assents, for definitions of terms; the description of and the nature and extent of the
15 security for the Bonds, the properties constituting the Water/Wastewater System; the Net
16 Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and
17 extent and manner of enforcement of the lien and pledge securing the payment of the Bonds;
18 the terms and conditions for the issuance of additional revenue obligations, the terms and
19 conditions relating to the transfer or exchange of this Bond; the conditions upon which the
20 Ordinances may be amended or supplemented with or without the consent of the Holders, the
21 rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and
22 provisions upon which the liens, pledges, charges and covenants made therein may be
23 discharged at or prior to the maturity of this Bond; and this Bond deemed to be no longer
24 Outstanding thereunder, and for the other terms and provisions contained therein. Capitalized
25 terms used herein have the same meanings assigned in the Ordinances.

26 This Bond, subject to certain limitations contained in the Ordinances, may be transferred
27 on the Security Register only upon its presentation and surrender at the Designated
28 Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly
29 endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the
30 Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized
31 agent. When a transfer on the Security Register occurs, one or more new fully registered
32 Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of
33 interest, and of the same aggregate principal amount will be issued by the Paying
34 Agent/Registrar to the designated transferee or transferees.

35 The City and the Paying Agent/Registrar, and any agent of either, may treat the
36 registered owner hereof whose name appears on the Security Register (i) on the Record Date
37 as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as
38 the owner entitled to payment of principal hereof at its Stated Maturity, or its redemption, in
39 whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the
40 City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the
41 contrary. In the event of non-payment of interest on a scheduled payment date and for
42 thirty (30) days thereafter, a new record date for such interest payment (a "Special Record
43 Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of
44 such interest have been received from the City. Notice of the Special Record Date and of the
45 scheduled payment date of the past due interest (which shall be fifteen (15) days after the
46 Special Record Date) shall be sent at least five (5) business days prior to the Special Record
47 Date by United States Mail, first class postage prepaid, to the address of each Holder appearing

1 on the Security Register at the close of business on the last business day next preceding the
2 date of mailing of such notice.

3 It is hereby certified, recited, represented and covenanted that the City is a duly
4 organized and legally existing municipal corporation under and by virtue of the Constitution and
5 laws of the State of Texas; that the issuance of the Bonds is duly authorized by law, that all
6 acts, conditions and things required to exist and be done precedent to and in the issuance of the
7 Bonds to render the same lawful and valid obligations of the City have been properly done, have
8 happened and have been performed in regular and due time, form and manner as required by
9 the Constitution and laws of the State of Texas, and the Ordinances; that the Bonds do not
10 exceed any constitutional or statutory limitation; and that due provision has been made for the
11 payment of the principal of and interest on the Bonds by a pledge of the Net Revenues of the
12 Water/Wastewater System as aforesaid. In case any provision in this Bond or any application
13 thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the
14 remaining provisions and applications shall not in any way be affected or impaired thereby. The
15 terms and provisions of this Bond and the Ordinances shall be construed in accordance with
16 and shall be governed by the laws of the State of Texas.

17 IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly
18 executed under the official seal of the City as of the Bond Date.

CITY OF AUSTIN, TEXAS

Mayor

24 COUNTERSIGNED:

28 City Clerk

30 (SEAL)

1 C. Form of Registration Certificate of Comptroller of Public Accounts to Appear on
2 Initial Bond(s) only.

3 REGISTRATION CERTIFICATE OF
4 COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
OF PUBLIC ACCOUNTS) REGISTER NO. _____
THE STATE OF TEXAS)

5 I HEREBY CERTIFY that this Bond has been examined, certified as to validity and
6 approved by the Attorney General of the State of Texas, and duly registered by the Comptroller
7 of Public Accounts of the State of Texas.

8 WITNESS my signature and seal of office this _____

9
10
11
12 Comptroller of Public Accounts
13 of the State of Texas

14 (SEAL)
15
16

17 D. Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds only.

18 REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

19 This Bond has been duly issued and registered in the name of the Registered Owner
20 shown above under the provisions of the within-mentioned Ordinances; the bond or bonds of
21 the above entitled and designated series originally delivered having been approved by the
22 Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as
23 shown by the records of the Paying Agent/Registrar.

24 The designated office of the Paying Agent/Registrar in New York, New York is the
25 Designated Payment/Transfer Office for this Bond.

26 Deutsche Bank Trust Company Americas,
27 New York, New York,
28 as Paying Agent/Registrar

29 Registration date:

30 _____
31 By _____
32 Authorized Signature

E Form of Assignment

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto
(Print or typewrite name, address, and zip code of transferee): _____

(Social Security or other identifying number (_____
) the within Bond and all rights thereunder, and hereby irrevocably
constitutes and appoints _____
attorney to transfer the within Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED.

Signature guaranteed.

NOTICE: The signature on this
assignment must correspond with the
name of the registered owner as it
appears on the face of the within Bond in
every particular.

F. The Initial Bond(s) shall be in the form set forth in paragraph B of this Section,
except that the form of a single fully registered Initial Bond shall be modified as follows:

REGISTERED
NO. T-1

REGISTERED
\$135,000,000

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AUSTIN, TEXAS,
WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BOND,
SERIES 2006A

Bond Date: November 15, 2006

Registered Owner:

Principal Amount: One Hundred Thirty-Five Million Dollars

The City of Austin (hereinafter referred to as the "City"), a body corporate and municipal
corporation in the Counties of Travis and Williamson, State of Texas, for value received, hereby
promises to pay to the Registered Owner named above, or the registered assigns thereof, solely
from the revenues hereinafter identified, the Principal Amount hereinabove stated on
November 15 in each of the years and in principal installments in accordance with the following
schedule:

YEAR OF
MATURITY

PRINCIPAL
INSTALLMENTS

INTEREST
RATE

(Information to be inserted from schedule in Section 3 hereof).

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest, computed on the basis of a 360-day year of twelve 30-day months, on the unpaid principal amounts hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the Bond Date) at the per annum rates of interest specified above; such interest being payable on May 15, 2007 and on each November 15 and May 15 thereafter until maturity or prior redemption. Principal installments of this Bond are payable to the registered owner hereof by Deutsche Bank Trust Company Americas, New York, New York (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in New York, New York (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/ Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 11: CRITERIA FOR ISSUANCE OF PARITY WATER/WASTEWATER OBLIGATIONS. The City has provided certain criteria and established certain covenants and agreements in relation to the issuance of Parity Water/Wastewater Obligations of the Water/Wastewater System pursuant to the Master Ordinance and Prior Supplements. This Twelfth Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment, and security of the Bonds which are Parity Water/Wastewater Obligations. The Master Ordinance is incorporated herein by reference and made a part hereof for all purposes, except to the extent modified and supplemented hereby, and the Bonds are hereby declared to be Parity Water/Wastewater Obligations under the Master Ordinance and Prior Supplements. The City hereby determines that it will have sufficient funds to meet the financial obligations of the Water/Wastewater System, including sufficient Net Revenues to pay the Annual Debt Service Requirements of the Bonds and the Previously Issued Parity Water/Wastewater Obligations and to meet all financial obligations of the City relating to the Water/Wastewater System.

SECTION 12: PLEDGE. Subject to the prior claim and lien on the Net Revenues of the Water/Wastewater System to the payment and security of the Prior First Lien Obligations currently Outstanding, including the funding and maintenance of the special funds established and maintained for the payment and security of such Prior First Lien Obligations, the Net Revenues of the Water/Wastewater System are hereby pledged to the payment of the Bonds, and the Bonds, together with the Prior Subordinate Lien Obligations, the Previously Issued Separate Lien Obligations and the Previously Issued Parity Water/Wastewater Obligations currently Outstanding, shall be equally and ratably secured by a parity lien on and pledge of the

1 Net Revenues of the Water/Wastewater System in accordance with the terms of the Master
2 Ordinance and this Twelfth Supplement. Additionally, the Bonds and the Previously Issued
3 Parity Water/Wastewater Obligations shall be equally and ratably secured by a lien on the
4 funds, if any, deposited to the credit of the Debt Service Fund and Reserve Fund in accordance
5 with the terms of the Master Ordinance, the Prior Supplements and this Twelfth Supplement. It
6 is hereby ordained that the Parity Water/Wastewater Obligations, and the interest thereon, shall
7 constitute a lien on the Net Revenues of the Water/Wastewater System and be valid and
8 binding and fully perfected from and after the date of adoption of this Twelfth Supplement
9 without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this
10 Twelfth Supplement or any other act, all as provided in Chapter 1208 of the Texas Government
11 Code, as amended. The owners of the Parity Water/Wastewater Obligations shall never have
12 the right to demand payment out of funds raised or to be raised by taxation, or from any source
13 other than specified in the Master Ordinance, the Prior Supplements and this Twelfth
14 Supplement.

15 Section 1208, Government Code, as amended, applies to the issuance of the Bonds and
16 the pledge of the Net Revenues of the Water/Wastewater System granted by the City under this
17 Section 12, and such pledge is therefore valid, effective and perfected. If Texas law is amended
18 at any time while the Bonds are Outstanding such that the pledge of the Net Revenues of the
19 Water/Wastewater System granted by the City under this Section 12 is to be subject to the filing
20 requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the
21 registered owners of the Bonds the perfection of the security interest in said pledge, the City
22 agrees to take such measures as it determines are reasonable and necessary under Texas law
23 to comply with the applicable provisions of Chapter 9, Business & Commerce Code, as
24 amended, and enable a filing to perfect the security interest in said pledge to occur.

25 **SECTION 13: DEBT SERVICE FUND.** By reason of the issuance of the Bonds, the City
26 need not establish any special accounts within the Debt Service Fund and following the delivery
27 of the Bonds, the City hereby agrees and covenants that in addition to the deposits for the
28 payment of the Previously Issued Parity Water/Wastewater Obligations there shall be deposited
29 to the credit of the Debt Service Fund an amount equal to one hundred percent (100%) of the
30 amount required to fully pay the interest on and principal of the Bonds falling due on or before
31 each maturity, mandatory redemption date and interest payment date, and such deposits shall
32 be made in substantially equal monthly amounts on or before the 14th day of each month
33 beginning on or before the 14th day of the month next following the month the Bonds are
34 delivered to the initial purchaser.

35 The required monthly deposits to the Debt Service Fund for the payment of principal of
36 and interest on the Bonds shall continue to be made in the manner provided herein until such
37 time as (i) the total amount on deposit in the Debt Service Fund is equal to the amount required
38 to fully pay and discharge all Parity Water/Wastewater Obligations then Outstanding or (ii) the
39 Bonds are no longer outstanding, i.e., fully paid as to principal and interest or all the Bonds have
40 been refunded.

41 Accrued interest received from the initial purchaser(s) of the Bonds shall be deposited in
42 the Debt Service Fund, and shall be taken into consideration and reduce the amount of the
43 monthly deposits that would otherwise be required to be deposited to the credit of such Debt
44 Service Fund from the Net Revenues of the Water/Wastewater System.

45 **SECTION 14: RESERVE FUND.** In accordance with the provisions of the Prior
46 Supplements authorizing the issuance of the Previously Issued Water/Wastewater Obligations,
47 the amount currently on deposit to the credit of the Reserve Fund is \$32,071,236.75 (the

"Current Reserve"), which Current Reserve is funded in full with surety bonds issued by (i) MBIA Insurance Corporation in the amounts of \$3,649,128, \$4,339,756.24 and \$2,075,370.29, (ii) Financial Security Assurance Inc. ("FSA") in the amounts of \$7,737,801.19, \$1,938,219 and \$2,840,932.12 and (iii) Ambac Assurance Corporation in the respective amounts of \$3,580,911, \$5,546,059.41 and \$363,059.50. By reason of the issuance of the Bonds, the Required Reserve Amount shall be and is hereby recalculated and determined to be \$_____. Upon the issuance of the Bonds, a surety bond (the "Reserve Fund Policy") in an amount equal to the difference between the Required Reserve Amount and the Current Reserve issued by _____ shall be deposited to the credit of the Reserve Fund to fully fund the Required Reserve Amount. The City Council hereby finds that with respect to the Bonds, the acquisition of the Reserve Fund Policy will result in the Reserve Fund being fully funded. Any draws on the surety bonds or other credit agreements funding the Required Reserve Amount on which there is available coverage shall be made on a pro rata basis (calculated by reference to coverage then available under each such surety bond or credit agreement) after applying available cash and investments in the Reserve Fund.

The Insurance Agreement (the "Insurance Agreement") by and between the City and _____ attached hereto as **Exhibit C** and incorporated herein by reference as a part of this Twelfth Supplement for all purposes as if all the provisions thereof were restated in full as part of this Section, is hereby approved as to form and content, and such Insurance Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to comply with Texas law, is hereby authorized to be executed by the City Treasurer for and on behalf of the City and as the act and deed of this governing body; and such Insurance Agreement as executed by said official shall be deemed approved by the City Council and constitute the Insurance Agreement herein approved.

The provisions of Section 8 of the Master Ordinance relating to the Reserve Fund, particularly paragraphs (b), (c) and (d) thereof, are hereby incorporated by reference and made a part hereof as if the same were restated in full in this Section, and to the extent of any conflict between the provisions of said Section 8 and the provisions hereof with respect to draws on any Credit Agreement and the reinstatement of the full amount afforded by Credit Agreement, the provisions of the Prior Supplements with respect to such Credit Agreement and such Credit Agreement shall govern. Furthermore, in accordance with Section 10(d) of the Master Ordinance, the City Council hereby finds that the Gross Revenues will be sufficient to meet the obligations of the Water/Wastewater System, including sufficient Net Revenues to satisfy the Annual Debt Service Requirements of Parity Water Wastewater Obligations currently Outstanding and the financial obligations of the City under any Credit Agreement entered into with the above-named surety bond providers.

SECTION 15: PAYMENT OF BONDS. On or before the first scheduled interest payment date, and on or before each interest payment date and principal payment date thereafter while any of the Bonds are Outstanding, the City shall cause an amount to be transferred to the Paying Agent/Registrar in immediately available funds from the Debt Service Fund and Reserve Fund, if necessary, sufficient to pay such interest on and such principal amount of the Bonds, as shall become due on such dates, respectively, at maturity or by redemption prior to maturity. The Paying Agent/Registrar shall destroy all paid Bonds and furnish the City with an appropriate certificate of cancellation or destruction.

SECTION 16: COVENANTS TO MAINTAIN TAX-EXEMPT STATUS.

(a) Definitions. When used in this Section 16, the following terms have the following meanings:

1 *"Closing Date"* means the date on which the Bonds are first authenticated
2 and delivered to the Underwriters against payment therefor.

3 *"Code"* means the Internal Revenue Code of 1986, as amended by all
4 legislation, if any, effective on or before the Closing Date.

5 *"Computation Date"* has the meaning set forth in Section 1.148-1(b) of the
6 Regulations.

7 *"Gross Proceeds"* means any proceeds as defined in Section 1.148-1(b)
8 of the Regulations, and any replacement proceeds as defined in Section
9 1.148-1(c) of the Regulations, of the Bonds.

10 *"Investment"* has the meaning set forth in Section 1.148-1(b) of the
11 Regulations.

12 *"Nonpurpose Investment"* means any investment property, as defined in
13 section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested
14 and which is not acquired to carry out the governmental purposes of the Bonds.

15 *"Rebate Amount"* has the meaning set forth in Section 1.148-1(b) of the
16 Regulations.

17 *"Regulations"* means any proposed, temporary, or final Income Tax
18 Regulations issued pursuant to Sections 103 and 141 through 150 of the Code,
19 and 103 of the Internal Revenue Code of 1986, which are applicable to the
20 Bonds. Any reference to any specific Regulation shall also mean, as
21 appropriate, any proposed, temporary or final Income Tax Regulation designed
22 to supplement, amend or replace the specific Regulation referenced.

23 *"Yield"* of (1) any Investment has the meaning set forth in Section 1.148-
24 5 of the Regulations and (2) the Bonds has the meaning set forth in Section
25 1.148-4 of the Regulations.

26 (b) Not to Cause Interest to Become Taxable The City shall not use, permit the use
27 of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition,
28 construction or improvement of which is to be financed directly or indirectly with Gross
29 Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any
30 Bond to become includable in the gross income, as defined in section 61 of the Code, of the
31 owner thereof for federal income tax purposes. Without limiting the generality of the foregoing,
32 unless and until the City receives a written opinion of counsel nationally recognized in the field
33 of municipal bond law to the effect that failure to comply with such covenant will not adversely
34 affect the exemption from federal income tax of the interest on any Bond, the City shall comply
35 with each of the specific covenants in this Section.

36 (c) No Private Use or Private Payments. Except as permitted by section 141 of the
37 Code and the Regulations and rulings thereunder, the City shall at all times prior to the last
38 Stated Maturity of Bonds:

39 (1) exclusively own, operate and possess all property the acquisition,
40 construction or improvement of which is to be financed or refinanced directly or
41 indirectly with Gross Proceeds of the Bonds (including property financed with

1 Gross Proceeds of the Refunded Obligations), and not use or permit the use of
2 such Gross Proceeds (including all contractual arrangements with terms different
3 than those applicable to the general public) or any property acquired, constructed
4 or improved with such Gross Proceeds in any activity carried on by any person or
5 entity (including the United States or any agency, department and instrumentality
6 thereof) other than a state or local government, unless such use is solely as a
7 member of the general public; and

8 (2) not directly or indirectly impose or accept any charge or other
9 payment by any person or entity who is treated as using Gross Proceeds of the
10 Bonds or any property the acquisition, construction or improvement of which is to
11 be financed or refinanced directly or indirectly with such Gross Proceeds
12 (including property financed with Gross Proceeds of the Refunded Obligations),
13 other than taxes of general application within the City or interest earned on
14 investments acquired with such Gross Proceeds pending application for their
15 intended purposes.

16 (d) No Private Loan. Except to the extent permitted by section 141 of the Code and
17 the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to
18 make or finance loans to any person or entity other than a state or local government. For
19 purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a
20 person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is
21 sold or leased to such person or entity in a transaction which creates a debt for federal income
22 tax purposes, (2) capacity in or service from such property is committed to such person or entity
23 under a take-or-pay, output or similar contract or arrangement, or (3) indirect benefits, or
24 burdens and benefits of ownership, of such Gross Proceeds or any property acquired,
25 constructed or improved with such Gross Proceeds are otherwise transferred in a transaction
26 which is the economic equivalent of a loan.

27 (e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of
28 the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the
29 final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment
30 (or use Gross Proceeds to replace money so invested), if as a result of such investment the
31 Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money
32 replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

33 (f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of
34 the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any
35 action which would cause the Bonds to be federally guaranteed within the meaning of section
36 149(b) of the Code and the Regulations and rulings thereunder.

37 (g) Information Report. The City shall timely file the information required by section
38 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and
39 in such place as the Secretary may prescribe.

40 (h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section
41 148(f) of the Code and the Regulations and rulings thereunder:

42 (1) The City shall account for all Gross Proceeds (including all receipts,
43 expenditures and investments thereof) on its books of account separately and
44 apart from all other funds (and receipts, expenditures and investments thereof)
45 and shall retain all records of accounting for at least six years after the day on

1 which the last Outstanding Bond is discharged. However, to the extent permitted
2 by law, the City may commingle Gross Proceeds of the Bonds with other money
3 of the City, provided that the City separately accounts for each receipt and
4 expenditure of Gross Proceeds and the obligations acquired therewith.

5 (2) Not less frequently than each Computation Date, the City shall
6 calculate the Rebate Amount in accordance with rules set forth in section 148(f)
7 of the Code and the Regulations and rulings thereunder. The City shall maintain
8 such calculations with its official transcript of proceedings relating to the issuance
9 of the Bonds until six years after the final Computation Date.

10 (3) As additional consideration for the purchase of the Bonds by the
11 Underwriters and the loan of the money represented thereby and in order to
12 induce such purchase by measures designed to insure the excludability of the
13 interest thereon from the gross income of the owners thereof for federal income
14 tax purposes, the City shall pay to the United States out of the Debt Service Fund
15 or its general fund, as permitted by applicable Texas statute, regulation or
16 opinion of the Attorney General of the State of Texas, the amount that when
17 added to the future value of previous rebate payments made for the Bonds
18 equals (i) in the case of a Final Computation Date as defined in Section 1.148-
19 3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount
20 on such date; and (ii) in the case of any other Computation Date, ninety percent
21 (90%) of the Rebate Amount on such date. In all cases, the rebate payments
22 shall be made at the times, in the installments, to the place and in the manner as
23 is or may be required by section 148(f) of the Code and the Regulations and
24 rulings thereunder, and shall be accompanied by Form 8038-T or such other
25 forms and information as is or may be required by Section 148(f) of the Code and
26 the Regulations and rulings thereunder.

27 (4) The City shall exercise reasonable diligence to assure that no errors
28 are made in the calculations and payments required by paragraphs (2) and (3),
29 and if an error is made, to discover and promptly correct such error within a
30 reasonable amount of time thereafter (and in all events within one hundred eighty
31 (180) days after discovery of the error), including payment to the United States of
32 any additional Rebate Amount owed to it, interest thereon, and any penalty
33 imposed under Section 1.148-3(h) of the Regulations.

34 (i) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of
35 the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the
36 earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that
37 reduces the amount required to be paid to the United States pursuant to Subsection (h) of this
38 Section because such transaction results in a smaller profit or a larger loss than would have
39 resulted if the transaction had been at arm's length and had the Yield of the Bonds not been
40 relevant to either party.

41 (j) Elections. The City hereby directs and authorizes the Mayor, City Manager,
42 Chief Financial Officer, Deputy Chief Financial Officer or City Treasurer, individually or jointly, to
43 make elections permitted or required pursuant to the provisions of the Code or the Regulations,
44 as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax
45 Exemption or similar or other appropriate certificate, form or document

1 (k) Bonds Not Hedge Bonds. (1) At the time the original obligations refunded by the
2 Bonds were issued, the City reasonably expected to spend at least 85% of the spendable
3 proceeds of such original obligations within three years after such obligations were issued and
4 (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were
5 invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4
6 years or more

7 (l) Current Refunding. The Refunded Obligations being refunded by the Bonds
8 constitute a current refunding as the payment of such Refunded Obligations will occur within 90
9 days of the delivery of the Bonds.

10 SECTION 17: **AMENDMENT OF TWELFTH SUPPLEMENT.**

11 (a) Required Owner Consent for Amendments. The owners of a majority in
12 Outstanding Principal Amount of the Bonds shall have the right from time to time to approve any
13 amendment to this Twelfth Supplement which may be deemed necessary or desirable by the
14 City, provided, however, nothing contained herein shall permit or be construed to permit the
15 amendment of the terms and conditions in this Twelfth Supplement so as to:

- 16 (1) Make any change in the maturity of any of the Outstanding Bonds;
- 17 (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- 18 (3) Reduce the amount of the principal payable on the Bonds;
- 19 (4) Modify the terms of payment of principal of, premium, if any, or interest on the
20 Outstanding Bonds or impose any conditions with respect to such payment,
- 21 (5) Affect the rights of the owners of less than all of the Bonds then Outstanding;
- 22 (6) Amend this subsection (a) of this Section; or
- 23 (7) Change the minimum percentage of the principal amount of Bonds necessary for
24 consent to any amendment,

25
26 unless such amendment or amendments be approved by the owners of all of the Bonds affected
27 by the change or amendment then Outstanding.

28 (b) Notice of Amendment Requiring Consent. If at any time the City shall desire to
29 amend this Twelfth Supplement under this Section, the City shall cause notice of the proposed
30 amendment to be published in a financial newspaper or journal published in The City of New
31 York, New York, and a newspaper of general circulation in the City, once during each calendar
32 week for at least two successive calendar weeks. Such notice shall briefly set forth the nature of
33 the proposed amendment and shall state that a copy thereof is on file with the Paying Agent
34 for the Bonds. Such publication is not required, however, if notice in writing is given by United
35 States Mail, first class postage prepaid, to each owner of the Bonds.

36 (c) Time Period for Obtaining Consent. If within one year from (i) the date of the first
37 publication of said notice or (ii) the date of the mailing by the Paying Agent of written notice to
38 the owners of the Bonds, whichever date first occurs if both methods of giving notice are used,
39 the City shall receive an instrument or instruments executed by the owners of at least a majority
40 in Outstanding Principal Amount of the Bonds consenting to and approving such amendment in
41 substantially the form of the copy thereof on file with each Paying Agent, the governing body of
42 the City may pass the amendatory ordinance in substantially the same form.

43 (d) Revocation of Consent. Any consent given by the owner of a Bond pursuant to
44 the provisions of this Section shall be irrevocable for a period of six months from the date for
45 measuring the one year period to obtain consents noted in paragraph (c) above, and shall be

conclusive and binding upon all future owners of the same Bonds during such period. At any time after six months from the date for measuring the one year period to obtain consents noted in paragraph (c) above, such consent may be revoked by the owner who gave such consent, or by a successor in title, by filing written notice thereof with the Paying Agent for such Bonds and the City, but such revocation shall not be effective if the owners of at least a majority in Outstanding Principal Amount of the then Outstanding Bonds as determined in accordance with this Section have, prior to the attempted revocation, consented to and approved the amendment.

(e) Implementation of Amendment Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Twelfth Supplement shall be deemed to be amended, and the respective rights, duties and obligations of the City under this Twelfth Supplement and all the owners of then Outstanding Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendment.

(f) Amendment without Consent. The foregoing provisions of this Section notwithstanding, the City by action of its governing body may amend this Twelfth Supplement for any one or more of the following purposes:

(1) To add to the covenants and agreements of the City contained in this Twelfth Supplement, other covenants and agreements thereafter to be observed, grant additional rights or remedies to the owners of the Bonds or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City,

(2) To make such provisions for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained in this Twelfth Supplement, or in regard to clarifying matters or questions arising under this Twelfth Supplement, as are necessary or desirable and not contrary to or inconsistent with this Twelfth Supplement and which shall not adversely affect the interests of the owners of the Bonds then Outstanding;

(3) To modify any of the provisions of this Twelfth Supplement in any other respect whatever, provided that such modification shall be, and be expressed to be, effective only after all the Bonds outstanding at the date of the adoption of such modification shall cease to be outstanding;

(4) To make such amendments to this Twelfth Supplement as may be required, in the opinion of Bond Counsel, to ensure compliance with sections 103 and 141 through 150 of the Code and the regulations promulgated thereunder and applicable thereto;

(5) To make such changes, modifications or amendments as may be necessary or desirable in order to allow the owners of the Bonds to thereafter avail themselves of a book-entry system for payments, transfers and other matters relating to the Bonds, which changes, modifications or amendments are not contrary to or inconsistent with other provisions of this Twelfth Supplement and which shall not adversely affect the interests of the owners of the Bonds;

(6) To make such changes, modifications or amendments as may be necessary or desirable in order to obtain or maintain the granting of a rating on the Bonds by a Rating Agency or to obtain or maintain a Credit Agreement or a Credit Facility; and

1 (7) To make such changes, modifications or amendments as may be
2 necessary or desirable, which shall not adversely affect the interests of the
3 owners of the Bonds, in order, to the extent permitted by law, to facilitate the
4 economic and practical utilization of interest rate swap agreements, foreign
5 currency exchange agreements, or similar types of agreements with respect to
6 the Bonds. Notice of any such amendment may be published by the City in the
7 manner described in clause (b) of this Section; provided, however, that the
8 publication of such notice shall not constitute a condition precedent to the
9 adoption of such amendatory ordinance and the failure to publish such notice
10 shall not adversely affect the implementation of such amendment as adopted
11 pursuant to such amendatory ordinance.

12 (g) Ownership. For the purpose of this Section, the ownership and other matters
13 relating to all Bonds shall be established by the Security Register maintained by the Paying
14 Agent. Furthermore, the owner of any Bonds insured as to the payment of principal of and
15 interest thereon shall be deemed to be the insurance company providing the insurance
16 coverage on such Bonds; provided such amendment to this Twelfth Supplement is an
17 amendment that can be made with the consent of a majority in Outstanding Principal Amount of
18 the Bonds and such insurance company is not in default with respect to its obligations under its
19 insurance policy.

20 **SECTION 18. FINAL DEPOSITS; GOVERNMENTAL OBLIGATIONS.** All or any of the
21 Bonds shall be deemed to be paid, retired and no longer outstanding within the meaning of this
22 Twelfth Supplement when payment of the principal of, and redemption premium, if any, on such
23 Bonds, plus interest thereon to the due date thereof (whether such due date be by reason of
24 maturity or otherwise) either (i) shall have been made or caused to be made in accordance with
25 the terms thereof, or (ii) shall have been provided by irrevocably depositing with, or making
26 available to, the Paying Agent/Registrar, in trust and irrevocably set aside exclusively for such
27 payment, (1) money sufficient to make such payment or (2) Government Obligations, certified
28 by an independent public accounting firm of national reputation, to mature as to principal and
29 interest in such amounts and at such times as will insure the availability, without reinvestment,
30 of sufficient money to make such payment, and all necessary and proper fees, compensation
31 and expenses of the Paying Agent/Registrar with respect to which such deposit is made shall
32 have been paid for the payment thereof provided for the satisfaction of the Paying
33 Agent/Registrar. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it
34 shall no longer be secured by or entitled to the benefit of this Twelfth Supplement, the Master
35 Ordinance, or a lien on and pledge of the Net Revenues of the Water/Wastewater System, and
36 shall be entitled to payment solely from such money or Government Obligations.

37 Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow
38 agent, may at the direction of the City also be invested in Government Obligations, maturing in
39 the amounts and at the times as hereinbefore set forth, and all income from all Government
40 Obligations not required for the payment of the Bonds, the redemption premium, if any, and
41 interest thereon, with respect to which such money has been so deposited, shall be turned over
42 to the City or deposited as directed by the City. The City covenants that no deposit will be made
43 or accepted under clause (ii) of this Section and no use made of any such deposit which would
44 cause the Bonds to be treated as arbitrage bonds within the meaning of Section 148 of the
45 Internal Revenue Code of 1986, as amended.

46 Notwithstanding any other provisions of this Twelfth Supplement, all money or
47 Government Obligations set aside and held in trust pursuant to the provisions of this Section for
48 the payment of the Bonds, the redemption premium, if any, and interest thereon, shall be

1 applied to and used for the payment of such Bonds, the redemption premium, if any, and
2 interest thereon and the income on such money or Government Obligations shall not be
3 considered to be "Gross Revenues" under this Twelfth Supplement.

4 **SECTION 19: DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS**

5 In the event any Outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying
6 Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same
7 principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or
8 destroyed Bond, in replacement for such Bond in the manner hereinafter provided. An
9 application for the replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be
10 made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the
11 applicant for a replacement bond shall furnish to the City and to the Paying Agent/Registrar
12 such security or indemnity as may be required by them to save each of them harmless from any
13 loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond,
14 the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to their
15 satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of
16 damage or mutilation of a Bond, the applicant shall surrender to the Paying Agent/Registrar for
17 cancellation the Bond so damaged or mutilated. Prior to the issuance of any replacement bond,
18 the Paying Agent/Registrar shall charge the owner of such Bond with all legal, printing, and
19 other expenses in connection therewith. Every replacement bond issued pursuant to the
20 provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall
21 constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond
22 shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits
23 of this Twelfth Supplement equally and proportionately with any and all other Bonds duly issued
24 under this Twelfth Supplement.

25 Notwithstanding the foregoing provisions of this Section, in the event any such Bond
26 shall have matured, and no default has occurred which is then continuing in the payment of the
27 principal of, redemption premium, if any, or interest on the Bond, the City may authorize the
28 payment of the same (without surrender thereof except in the case of a damaged or mutilated
29 Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as
30 above provided in this Section. Furthermore, in accordance with V.T.C.A., Government Code,
31 Section 1206.022, this Section shall constitute authority for the issuance of any such
32 replacement bond without necessity of further action by the governing body of the City or any
33 other body or person, and the duty of the replacement of such bonds is hereby authorized and
34 imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate
35 and deliver such bonds in the form and manner and with the effect, as provided in Section 6 of
36 this Twelfth Supplement for Bonds issued in exchange for other Bonds

37 **SECTION 20: TWELFTH SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL**
38 **SECURITY.** In consideration of the acceptance of the Bonds, the issuance of which is
39 authorized hereunder, by those who shall hold the same from time to time, this Twelfth
40 Supplement shall be deemed to be and shall constitute a contract between the City and the
41 Holders from time to time of the Bonds and the pledge made in this Twelfth Supplement by the
42 City and the covenants and agreements set forth in this Twelfth Supplement to be performed by
43 the City shall be for the equal and proportionate benefit, security, and protection of all Holders,
44 without preference, priority, or distinction as to security or otherwise of any of the Bonds
45 authorized hereunder over any of the others by reason of time of issuance, sale, or maturity
46 thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by
47 this Twelfth Supplement.

1 SECTION 21: **CONTINUING DISCLOSURE UNDERTAKING.**

2 (a) Definitions. As used in this Section, the following terms have the meanings
3 ascribed to such terms below:

4 "MSRB" means the Municipal Securities Rulemaking Board.

5 "NRMSIR" means each person whom the SEC or its staff has determined
6 to be a nationally recognized municipal securities information repository within
7 the meaning of the Rule from time to time

8 "Rule" means SEC Rule 15c2-12, as amended from time to time.

9 "SEC" means the United States Securities and Exchange Commission

10 "SID" means any person designated by the State of Texas or an
11 authorized department, officer, or agency thereof, as, and determined by the SEC
12 or its staff to be, a state information depository within the meaning of the Rule
13 from time to time.

14 (b) Annual Reports. The City shall provide annually to each NRMSIR and any SID,
15 within six months after the end of each fiscal year (beginning with the fiscal year ending
16 September 30, 2006) financial information and operating data with respect to the City of the
17 general type included in the final Official Statement approved by Section 23 of this Twelfth
18 Supplement, being the information described in **Exhibit D** hereto. Financial statements to be
19 provided shall be (1) prepared in accordance with the accounting principles described in
20 **Exhibit D** hereto and (2) audited, if the City commissions an audit of such statements and the
21 audit is completed within the period during which they must be provided. If audited financial
22 statements are not available at the time the financial information and operating data must be
23 provided, then the City shall provide unaudited financial statements for the applicable fiscal year
24 to each NRMSIR and any SID with the financial information and operating data and will file the
25 annual audit report when and if the same becomes available.

26 If the City changes its fiscal year, it will notify each NRMSIR and any SID of the change
27 (and of the date of the new fiscal year end) prior to the next date by which the City otherwise
28 would be required to provide financial information and operating data pursuant to this Section.

29 The financial information and operating data to be provided pursuant to this Section may
30 be set forth in full in one or more documents or may be included by specific reference to any
31 document (including an official statement or other offering document, if it is available from the
32 MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

33 (c) Material Event Notices The City shall notify any SID and either each NRMSIR or
34 the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such
35 event is material within the meaning of the federal securities laws:

- 36 (1) Principal and interest payment delinquencies;
37 (2) Non-payment related defaults;
38 (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
39 (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
40 (5) Substitution of credit or liquidity providers, or their failure to perform;
41 (6) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;

- (7) Modifications to rights of holders of the Bonds;
- (8) Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds; and
- (11) Rating changes.

The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT, ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Twelfth Supplement for purposes of any other provision of this Twelfth Supplement.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City or the Water/Wastewater System, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Twelfth Supplement that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized

1 bond counsel) determines that such amendment will not materially impair the interests of the
2 Holders and beneficial owners of the Bonds. The provisions of this Section may also be
3 amended from time to time or repealed by the City if the SEC amends or repeals the applicable
4 provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid,
5 but only if and to the extent that reservation of the City's right to do so would not prevent
6 underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds
7 in such offering. If the City so amends the provisions of this Section, it shall include with any
8 amended financial information or operating data filed with each NRMSIR and SID pursuant to
9 subsection (b) of this Section 21 an explanation, in narrative form, of the reasons for the
10 amendment and of the impact of any change in the type of financial information or operating
11 data so provided.

12 **SECTION 22: REMEDY IN EVENT OF DEFAULT.** In addition to all rights and remedies
13 provided by the laws of the State of Texas, the City covenants and agrees particularly that in the
14 event the City (a) defaults in payments to be made to the Debt Service Fund or Reserve Fund
15 as required by this Twelfth Supplement or the Master Ordinance, (b) defaults in the observance
16 or performance of any other of the covenants, conditions or obligations set forth in this Twelfth
17 Supplement or the Master Ordinance or (c) the City declares bankruptcy, the Holders of any of
18 the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction,
19 compelling and requiring the City and its officers to observe and perform any covenant,
20 condition or obligation prescribed in this Twelfth Supplement or the Master Ordinance. No delay
21 or omission to exercise any right or power accruing upon any default shall impair any such right
22 or power, or shall be construed to be a waiver of any such default or acquiescence therein, and
23 every such right and power may be exercised from time to time and as often as may be deemed
24 expedient.

25 The specific remedy herein provided shall be cumulative of all other existing remedies
26 and the specification of such remedy shall not be deemed to be exclusive.

27 **SECTION 23: SALE OF BONDS - OFFICIAL STATEMENT APPROVAL.** Pursuant to a
28 public sale for the Bonds, the bid submitted by _____ (herein referred to as
29 the "Underwriters") is declared to be the best bid received producing the lowest true interest
30 cost rate to the City; such bid is hereby accepted and incorporated herein by reference as a part
31 of this Twelfth Supplement for all purposes and the sale of the Bonds to said Underwriters at the
32 price of par and accrued interest to the date of delivery, plus a premium of
33 \$ _____ is hereby approved and confirmed. Delivery of the Bonds to the
34 Underwriters shall occur as soon as possible upon payment being made therefor in accordance
35 with the terms of sale.

36 Furthermore, the use of the Preliminary Official Statement, dated November 9, 2006, in
37 the offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects, and
38 the City Council hereby finds that the information and data contained in said Preliminary Official
39 Statement pertaining to the City and its financial affairs is true and correct in all material
40 respects and no material facts have been omitted therefrom which are necessary to make the
41 statements therein, in light of the circumstances under which they were made, not misleading.
42 The final Official Statement, which reflects the terms of sale (together with such changes
43 approved by the Mayor, City Manager, Chief Financial Officer, Deputy Chief Financial Officer or
44 City Treasurer, one or more of said officials), shall be and is hereby in all respects approved and
45 the Underwriters are hereby authorized to use and distribute said final Official Statement, dated
46 November 16, 2006, in the offering, sale and delivery of the Bonds to the public.

1 **SECTION 24. CONTROL AND CUSTODY OF BONDS.** The City Manager of the City
2 shall be and is hereby authorized to take and have charge of all necessary orders and records
3 pending the sale of the Bonds, and shall take and have charge and control of the Initial Bonds
4 pending the approval thereof by the Attorney General, the registration thereof by the
5 Comptroller of Public Accounts and the delivery thereof to the Underwriters.

6 Furthermore, the Mayor, City Manager, Chief Financial Officer, Deputy Chief Financial
7 Officer, City Clerk, City Treasurer and City Attorney, any one or more of said officials, are
8 hereby authorized and directed to furnish and execute such documents relating to the City and
9 its financial affairs as may be necessary for the sale of the Bonds, the approval of the Attorney
10 General and registration by the Comptroller of Public Accounts and, together with the City's
11 financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary
12 arrangements for their delivery to the Underwriters following such sale.

13 **SECTION 25. PROCEEDS OF SALE.** Immediately following the delivery of the Bonds,
14 the proceeds of sale of the Bonds in an amount sufficient to pay and defease the Refunded
15 Obligations shall be deposited with the US Bank, National Association (the paying agent for the
16 Refunded Obligations and hereinafter called the "Deposit Agent") for the payment and discharge
17 of the Refunded Obligations and the balance of such proceeds shall be used for the payment of
18 costs of issuance, including amounts to pay municipal bond insurance and amounts to pay the
19 surety bond premium, if any, all in accordance with written instructions to the Paying
20 Agent/Registrar. Accrued interest received from the Underwriters shall be deposited to the
21 credit of the Debt Service Fund. Premium, if any, received from the Underwriters shall either be
22 deposited to the credit of the Debt Service Fund or used for the payment of the costs of
23 issuance or deposited with the Deposit Agent and applied to the defeasance of the Refunded
24 Obligations.

25 Furthermore, appropriate officials of the City in cooperation with the Deposit Agent are
26 hereby authorized and directed to make the necessary arrangements for the deposit of funds
27 with the Deposit Agent for the payment of the Refunded Obligations; all as contemplated and
28 provided in V.T.C.A., Government Code, Chapter 1207, as amended, and this Twelfth
29 Supplement.

30 **SECTION 26. LEGAL OPINION.** The obligation of the Underwriters to accept delivery of
31 the Bonds is subject to being furnished a final opinion of Fulbright & Jaworski L.L.P., Attorneys,
32 Dallas, Texas, approving such Bonds as to their validity, said opinion to be dated and delivered
33 as of the date of delivery and payment for such Bonds. A true and correct reproduction of said
34 opinion is hereby authorized to be printed on the definitive Bonds or an executed counterpart
35 thereof shall accompany the global Bonds deposited with The Depository Trust Company.

36 **SECTION 27. CUSIP NUMBERS** CUSIP numbers may be printed or typed on the
37 definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP
38 numbers on the definitive Bonds shall be of no significance or effect as regards the legality
39 thereof and neither the City nor attorneys approving said Bonds as to legality are to be held
40 responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

41 **SECTION 28: PAYMENT AND PERFORMANCE ON BUSINESS DAYS.** Whenever
42 under the terms of this Twelfth Supplement or the Bonds, the performance date of any provision
43 hereof or thereof, including the payment of principal of or interest on the Bonds, shall occur on a
44 day other than a Business Day, then the performance thereof, including the payment of principal
45 of and interest on the Bonds, need not be made on such day but may be performed or paid, as

1 the case may be, on the next succeeding Business Day with the same force and effect as if
2 made on the date of performance or payment.

3 **SECTION 29. LIMITATION OF BENEFITS WITH RESPECT TO THE TWELFTH**
4 **SUPPLEMENT.** With the exception of the rights or benefits herein expressly conferred, nothing
5 expressed or contained herein or implied from the provisions of this Twelfth Supplement or the
6 Bonds is intended or should be construed to confer upon or give to any person other than the
7 City, the Holders, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim
8 under or by reason of or in respect to this Twelfth Supplement or any covenant, condition,
9 stipulation, promise, agreement, or provision herein contained. This Twelfth Supplement and all
10 of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are
11 intended to be and shall be for and inure to the sole and exclusive benefit of the City, the
12 Holders, and the Paying Agent/Registrar as herein and therein provided.

13 **SECTION 30: NOTICES TO HOLDERS-WAIVER.** Wherever this Twelfth Supplement
14 provides for notice to Holders of any event, such notice shall be sufficiently given (unless
15 otherwise herein expressly provided) if in writing and sent by United States Mail, first class
16 postage prepaid, to the address of each Holder appearing in the Security Register at the close
17 of business on the business day next preceding the mailing of such notice.

18 In any case where notice to Holders is given by mail, neither the failure to mail such
19 notice to any particular Holders, nor any defect in any notice so mailed, shall affect the
20 sufficiency of such notice with respect to all other Bonds. Where this Twelfth Supplement
21 provides for notice in any manner, such notice may be waived in writing by the Holder entitled to
22 receive such notice, either before or after the event with respect to which such notice is given,
23 and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be
24 filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the
25 validity of any action taken in reliance upon such waiver.

26 **SECTION 31. GOVERNING LAW.** This Twelfth Supplement shall be construed and
27 enforced in accordance with the laws of the State of Texas and the United States of America.

28 **SECTION 32: EFFECT OF HEADINGS.** The Section headings herein are for
29 convenience of reference only and shall not affect the construction hereof.

30 **SECTION 33 CONSTRUCTION OF TERMS.** If appropriate in the context of this Twelfth
31 Supplement, words of the singular number shall be considered to include the plural, words of
32 the plural number shall be considered to include the singular, and words of the masculine,
33 feminine or neuter gender shall be considered to include the other genders.

34 **SECTION 34. SEVERABILITY.** If any provision of this Twelfth Supplement or the
35 application thereof to any circumstance shall be held to be invalid, the remainder of this Twelfth
36 Supplement and the application thereof to other circumstances shall nevertheless be valid, and
37 the City Council hereby declares that this Twelfth Supplement would have been enacted without
38 such invalid provision

39 **SECTION 35: INCORPORATION OF FINDINGS AND DETERMINATIONS.** The findings
40 and determinations of the City Council contained in the preamble hereof are hereby
41 incorporated by reference and made a part of this Ordinance for all purposes as if the same
42 were restated in full in this Section.

1 SECTION 36: **INSURANCE**

2 *[to follow after provider has been determined]*

3 **SECTION 37: PUBLIC MEETING.** It is officially found, determined, and declared that the
4 meeting at which this Twelfth Supplement is adopted was open to the public and public notice of
5 the time, place, and subject matter of the public business to be considered at such meeting,
6 including this Twelfth Supplement, was given; all as required by V.T.C A., Government Code,
7 Chapter 551, as amended.

8 **SECTION 38: EFFECTIVE DATE** This Twelfth Supplement is hereby passed one
9 reading as authorized by V T.C A., Government Code, Section 1201.028, and shall be effective
10 immediately upon its passage and adoption.

11 *[remainder of page left blank intentionally]*

DRAFT

PASSED AND ADOPTED, this November 16, 2006.

CITY OF AUSTIN, TEXAS

ATTEST:

SHIRLEY A. GENTRY
City Clerk

(City Seal)

WILL WYNN
Mayor

APPROVED: _____

DAVID ALLAN SMITH
City Attorney

DRAFT

EXHIBIT A

That, as used in this Twelfth Supplement, the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Bonds" means the "CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2006A" authorized for issuance by the Twelfth Supplement.

"Business Day" means a day other than a Sunday, Saturday, a legal holiday, or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

"Insurance Agreement" means the Insurance Agreement between _____ and the City related to the Reserve Fund Policy.

"Master Ordinance" means Ordinance No. 000608-56A providing for the issuance of "Parity Water/Wastewater Obligations", as defined therein, passed by the City on June 8, 2000.

"Twelfth Supplement" means Ordinance No. 20061116-_____ authorizing the issuance of the Bonds.

"Paying Agent/Registrar" means the financial institution specified in Section 4 of the Twelfth Supplement.

"Previously Issued Parity Water/Wastewater Obligations" mean the outstanding Parity Water/Wastewater Obligations previously issued or incurred pursuant to one or more Prior Supplements, more particularly identified as follows: (1) "City of Austin, Texas, Water And Wastewater System Revenue Refunding Bonds, Series 2000" (2) "City of Austin, Texas, Water And Wastewater System Revenue Refunding Bonds, Series 2001A", (3) "City of Austin, Texas, Water And Wastewater System Revenue Refunding Bonds, Series 2001B", (4) "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2001C", (5) "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2002A", (6) "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2003", (7) "City of Austin, Texas, Water and Wastewater System Variable Rate Revenue Refunding Bonds, Series 2004", together with certain regularly scheduled payments under the Interest Rate Swap Agreement, the Liquidity Agreement and the Insurance Obligation (as such terms are defined in Ordinance No. 040812-43), (8) "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2004A", (9) "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2005", (10) and "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2005A", and (11) "City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2006".

"Prior Supplements" mean Ordinances Nos. 000608-56B, 010419-77, 011129-65, 020718-15, 030206-35, 040617-45, 040812-43, 040930-83, 050519-37, 051020-051 and 20051117-060 authorizing the issuance of the Previously Issued Parity Water/Wastewater Obligations.

"Security Register" shall have the meaning given said term in Section 4 of the Twelfth Supplement.

Exhibit B

Paying Agent Registrar Agreement

DRAFT

Exhibit C
Insurance Agreement

DRAFT

Exhibit D

Continuing Disclosure Requirements Under the Rule
DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 21 of this Twelfth Supplement.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. The information under the numbered tables.

Accounting Principles

The accounting principles referred to in such Section are the generally accepted accounting principles as applicable to governmental units as prescribed by The Government Accounting Standards Board.